

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-208878

DATE: October 7, 1982

MATTER OF: Thomas G. Morrow

DIGEST:

Failure to place protester on bidders list does not render award improper where protester has neither alleged nor shown that procuring agency deliberately or consciously precluded protester from competing and did not receive adequate competition without protester's participation.

Thomas G. Morrow protests an award of a contract by the Lassen National Forest Almanor Ranger District (Ranger District), Susanville, California, for janitorial services under solicitation No. R5-06-82-29. Mr. Morrow, the incumbent contractor, protests that he was deprived of an opportunity to bid on the contract because he was left off the bidders list due to a clerical error committed by the Ranger District.

The protest is summarily denied.

While it is unfortunate that the protester was inadvertently excluded from the bidders list, the protester has neither alleged nor shown that the Ranger District deliberately prevented him from competing and did not receive adequate competition without the protester's participation. We have held in numerous decisions concerning an agency's failure to solicit a particular contractor that, where adequate competition resulted in reasonable prices and where there is no deliberate or conscious intent on the part of the procuring agency to preclude a bidder from competing, an award is not improper solely because a bidder did not receive a copy of a solicitation. Security Assistance Forces & Equipment OIG, B-204893.2, June 21, 1982, 82-1 CPD 607; Preen Building Maintenance Company, B-182914, April 10, 1975, 75-1 CPD 222. This rule is applicable even where, as here, the bidder who did not receive the solicitation is an incumbent contractor. Freedom Elevator Corporation, B-199773, December 18, 1980, 80-2 CPD 438; Michael O'Connor, Inc., B-185502, May 14, 1976, 76-1 CPD 326.

Our Office generally requests a report from the procuring agency upon receipt of a protest and withholds our decision pending receipt and review of the report. See 4 C.F.R. § 21.3 (1982). However, where it is clear from a protester's initial submission that the protest is without legal merit, the matter will be decided summarily. Diversified Computer Consultants, B-206616, April 12, 1982, 82-1 CPD 335; Wilson & Hayes, Inc., B-198672, June 6, 1980, 80-1 CPD 397.

for *F. H. Barclay, Jr.*
Comptroller General
of the United States